

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AAIPHARMA LITIGATION LLC,

Plaintiff,

v.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 2/16/10

: 02 Civ 9628 (BSJ)

KREMERS URBAN DEVELOPMENT CO., :
SCHWARTZ PHARMA, SCHWARTZ PHARMA, :
AG, SCHWARTZ PHARMA MANUFACTURING, :
INC., SCHWARTZ PHARMA USA HOLDINGS :
INC., SCHWARTZ PHARMA, INC., and :
KREMERS URBAN, INC., :

Defendants.

: Order

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BARBARA S. JONES
UNITED STATES DISTRICT JUDGE

Plaintiff AAIPharma Litigation LLC moves for entry of a scheduling order pursuant to Federal Rule of Civil Procedure 16(b).

There are two fully-briefed motions pending before the Court: (1) Defendants' motion to pierce the attorney-client privilege based on the crime-fraud exception and (2) Plaintiff's objections to Magistrate Judge Ellis' ruling ordering production of certain privileged documents (the "Outstanding Motions").¹ In addition, Defendants have filed a motion for summary judgment seeking a determination that the patents at issue are invalid as anticipated by prior art. The Court stayed briefing on the summary judgment motion until the Rule 56(f) issue was resolved.

¹ Plaintiff also filed a motion for discovery pursuant to Rule 56(f) but has since withdrawn that motion.

The Parties have advised the Court that the Court's resolution of the Outstanding Motions may affect litigation of Defendants' summary judgment motion. Therefore, the Parties have agreed to the issuance of a scheduling order that runs from the date the Court resolves both of the Outstanding Motions (the "Decision Date").

The Court therefore issues the following scheduling order:

Pending Summary Judgment Motion

- 21 days after the Decision Date: Plaintiff to file and serve its brief in response to Defendants' motion for summary judgment.
- 14 days after Plaintiff files and serves its response brief: Defendants to file and serve a reply brief to Plaintiff's response to Defendants' motion for summary judgment.

Completion of Discovery

- **Fact Discovery:** 90 days after the Decision Date.
- **Expert Discovery**
 - 120 days after the Decision Date: Parties to exchange expert reports relating to the issues for which they bear the burden.

- o 90 days after the Parties exchange expert reports relating to the issues for which they bear the burden: Parties to submit responsive expert reports.
 - o 60 days after the Parties submit responsive expert reports: All expert discovery to be completed.
- **Case Dispositive Motions**
 - o 90 days after all expert discovery is completed: Any dispositive motions to be filed and served.

Any Party may move to modify or extend these deadlines upon letter request to the Court and notice to all Parties.

SO ORDERED:



Barbara S. Jones
UNITED STATES DISTRICT JUDGE

New York, New York
February 15, 2010